

IC 36-10-9.1

Chapter 9.1. Marion County Convention and Recreational Facilities Authority

IC 36-10-9.1-1

Application of chapter

Sec. 1. This chapter applies to each county having a consolidated city.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-2

"Authority" defined

Sec. 2. As used in this chapter, "authority" refers to the county convention and recreational facilities authority created by this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-3

"Board" defined

Sec. 3. As used in this chapter, "board" refers to the board of directors of the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-4

"Bonds" defined

Sec. 4. As used in this chapter, "bonds" means bonds, notes, or other evidence of indebtedness.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-5

"Capital improvement board" defined

Sec. 5. As used in this chapter, "capital improvement board" refers to the capital improvement board of managers created by IC 36-10-9.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-6

Creation of authority

Sec. 6. A _____ County Convention and Recreational Facilities Authority (the blank to be filled in with the name of the county) is created in the county as a separate body corporate and politic as an instrumentality of the county to finance facilities for lease to the capital improvement board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-7

Board of directors; members

Sec. 7. (a) The board is composed of three (3) members, who must be residents of the county appointed by the executive of the county.

(b) A member is entitled to serve a three (3) year term. A member

may be reappointed to subsequent terms.

(c) If a vacancy occurs on the board, the executive of the county shall fill the vacancy by appointing a new member for the remainder of the vacated term.

(d) A board member may be removed for cause by the executive of the county.

(e) Each member, before entering upon the duties of office, must take and subscribe an oath of office under IC 5-4-1, which shall be endorsed upon the certificate of appointment and filed with the records of the board.

(f) A member may not receive a salary.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-8

Organizational meeting; officers; special meetings; quorum

Sec. 8. (a) Immediately after January 15 of each year, the board shall hold an organizational meeting. It shall elect one (1) of the members president, another vice president, and another secretary-treasurer to perform the duties of those offices. These officers serve from the date of their election and until their successors are elected and qualified. The board may elect an assistant secretary-treasurer.

(b) Special meetings may be called by the president of the board or any two (2) members of the board.

(c) A majority of the members constitutes a quorum, and the concurrence of a majority of the members is necessary to authorize any action.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-9

Bylaws and rules

Sec. 9. The board may adopt such bylaws and rules as it considers necessary for the proper conduct of its duties and the safeguarding of the funds and property entrusted to its care.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-10

Purposes

Sec. 10. The authority is organized for the following purposes:

(1) Financing, constructing, and leasing capital improvements to the capital improvement board.

(2) Financing and constructing additional improvements to capital improvements owned by the authority and leasing them to the capital improvement board.

(3) Acquiring all or a portion of one (1) or more capital improvements from the capital improvement board by purchase or lease and leasing these capital improvements back to the capital improvement board, with any additional improvements that may be made to them.

(4) Acquiring all or a portion of one (1) or more capital

improvements from the capital improvement board by purchase or lease to fund or refund indebtedness incurred on account of those capital improvements to enable the capital improvement board to make a savings in debt service obligations or lease rental obligations or to obtain relief from covenants that the capital improvement board considers to be unduly burdensome.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-11

Powers

Sec. 11. The authority may also:

- (1) finance, improve, construct, reconstruct, renovate, purchase, lease, acquire, and equip capital improvements;
- (2) lease those capital improvements to the capital improvement board;
- (3) sue, be sued, plead, and be impleaded, but all actions against the authority must be brought in the circuit or superior court of the county in which the authority is located;
- (4) condemn, appropriate, lease, rent, purchase, and hold any real or personal property needed or considered useful in connection with capital improvements;
- (5) acquire real or personal property by gift, devise, or bequest and hold, use, or dispose of that property for the purposes authorized by this chapter;
- (6) enter upon any lots or lands for the purpose of surveying or examining them to determine the location of a capital improvement;
- (7) design, order, contract for, and construct, reconstruct, and renovate any capital improvements or improvements thereto;
- (8) employ managers, superintendents, architects, engineers, attorneys, auditors, clerks, construction managers, and other employees necessary for construction of capital improvements or improvements thereto;
- (9) make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter; and
- (10) take any other action necessary to implement its purposes as set forth in section 10 of this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-12

Refunding of bonds

Sec. 12. (a) Bonds issued under IC 36-10-9 or prior law may be refunded as provided in this section.

(b) The capital improvement board may:

- (1) lease all or a portion of a capital improvement or improvements to the authority, which may be at a nominal lease rental with a lease back to the capital improvement board, conditioned upon the authority assuming bonds issued under IC 36-10-9 or prior law and issuing its bonds to refund those

bonds; and

(2) sell all or a portion of a capital improvement or improvements to the authority for a price sufficient to provide for the refunding of those bonds and lease back the capital improvement or improvements from the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-13

Lease of capital improvements to capital improvement board; terms

Sec. 13. (a) Before a lease may be entered into, both the capital improvement board and the executive of the county must find that the lease rental provided for is fair and reasonable.

(b) A lease of capital improvements from the authority to the capital improvement board:

(1) may not have a term exceeding forty (40) years;

(2) may not require payment of lease rental for a newly constructed capital improvement or for improvements to an existing capital improvement until the capital improvement or improvements thereto have been completed and are ready for occupancy;

(3) may contain provisions:

(A) allowing the capital improvement board to continue to operate an existing capital improvement until completion of the improvements, reconstruction, or renovation; and

(B) requiring payment of lease rentals for an existing capital improvement being used, reconstructed, or renovated;

(4) may contain an option to renew the lease for the same or shorter term on the conditions provided in the lease;

(5) must contain an option for the capital improvement board to purchase the capital improvement upon the terms stated in the lease during the term of the lease for a price equal to the amount required to pay all indebtedness incurred on account of the capital improvement, including indebtedness incurred for the refunding of that indebtedness;

(6) may be entered into before acquisition or construction of a capital improvement;

(7) must be approved by the executive of the county;

(8) may provide that the capital improvement board shall agree to:

(A) pay all taxes and assessments thereon;

(B) maintain insurance thereon for the benefit of the authority; and

(C) assume responsibility for utilities, repairs, alterations, and any costs of operation; and

(9) subject to IC 36-10-9-11, may provide that the lease rental payments by the capital improvement board shall be made from any one (1) or more of the following sources:

(A) Proceeds of one (1) or more of the excise taxes as defined in IC 36-10-9.

(B) Net revenues of the capital improvement.

(C) Any other funds available to the capital improvement board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-14

Leases; exclusivity of provisions of this chapter

Sec. 14. This chapter contains full and complete authority for leases between the authority and the capital improvement board. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board or the capital improvement board or any other officer, department, agency, or instrumentality of the state or any political subdivision is required to enter into any lease, except as prescribed in this chapter.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-15

Approval of plans and specifications

Sec. 15. If the lease provides for a capital improvement or improvements thereto to be constructed by the authority, the plans and specifications shall be submitted to and approved by the capital improvement board and all agencies designated by law to pass on plans and specifications for public buildings.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-16

Common wall agreements

Sec. 16. The authority and the capital improvement board may enter into common wall (party wall) agreements or other agreements concerning easements or licenses. These agreements shall be recorded with the recorder of the county.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-17

Lease or sale of property by capital improvement board to the authority

Sec. 17. (a) The capital improvement board may lease for a nominal lease rental, or sell to the authority, one (1) or more capital improvements or portions thereof or land upon which a capital improvement is located or is to be constructed.

(b) Any lease of all or a portion of a capital improvement by the capital improvement board to the authority must be for a term equal to the term of the lease of that capital improvement back to the capital improvement board.

(c) The capital improvement board may sell property to the authority for such amount as it determines to be in the best interest of the capital improvement board, which amount may be paid from the proceeds of bonds of the authority.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-18 Repealed

(Repealed by P.L.19-1986, SEC.62.)

IC 36-10-9.1-18.1

Bonds; issuance by authority

Sec. 18.1. (a) The authority may issue bonds for the purpose of obtaining money to pay the cost of:

- (1) acquiring property;
- (2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or
- (3) funding or refunding bonds issued under IC 36-10-9 or prior law.

(b) The bonds are payable solely from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

(c) The bonds shall be authorized by a resolution of the board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon such terms as determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

- (1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;
- (2) acquisition of a site and clearing and preparing the site for construction;
- (3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;
- (4) architectural, engineering, consultant, and attorney fees;
- (5) incidental expenses in connection with the issuance and sale of bonds;
- (6) reserves for principal and interest;
- (7) interest during construction;
- (8) financial advisory fees;
- (9) insurance during construction;
- (10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
- (11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (in any) for, and interest on, the bonds being refunded or refinanced.

As added by P.L.19-1986, SEC.63. Amended by P.L.11-1987, SEC.35.

IC 36-10-9.1-18.2

Bonds; exclusivity of this chapter

Sec. 18.2. This chapter contains full and complete authority for the issuance of bonds. No law, procedure, proceedings, publications, notices, consents, approvals, orders, or acts by the board of any other officer, department, agency, or instrumentality of the state or of any political subdivision is required to issue any bonds, except as prescribed in this chapter.

As added by P.L.19-1986, SEC.64.

IC 36-10-9.1-19

Investment in bonds of authority

Sec. 19. Bonds issued under this chapter are legal investments for private trust funds and the funds of banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and other financial institutions organized under Indiana law.

As added by P.L.82-1985, SEC.12. Amended by P.L.42-1993, SEC.101.

IC 36-10-9.1-20

Trust indenture as security for bonds

Sec. 20. (a) The authority may secure bonds issued under this chapter by a trust indenture between the authority and a corporate trustee, which may be any trust company or national or state bank within Indiana that has trust powers.

(b) The trust indenture may:

- (1) pledge or assign lease rentals, receipts, and income from leased capital improvements, but may not mortgage land or capital improvements;
- (2) contain reasonable and proper provisions for protecting and enforcing the rights and remedies of the bondholders, including covenants setting forth the duties of the authority and board;
- (3) set forth the rights and remedies of bondholders and trustee; and
- (4) restrict the individual right of action of bondholders.

(c) Any pledge or assignment made by the authority under this section is valid and binding from the time that the pledge or assignment is made, against all persons whether they have notice of the lien or not. Any trust indenture by which a pledge is created or an assignment made need not be filed or recorded. The lien is perfected against third parties by filing the trust indenture in the records of the board.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-21

Bonds; issuance by capital improvement board

Sec. 21. If the capital improvement board exercises its option to purchase leased property, it may issue its bonds as authorized by

statute.

As added by P.L.82-1985, SEC.12.

IC 36-10-9.1-22

Tax exemption

Sec. 22. All:

- (1) property owned by the authority;
- (2) revenues of the authority; and
- (3) bonds issued by the authority, the interest on the bonds, the proceeds received by a holder from the sale of bonds to the extent of the holder's cost of acquisition, proceeds received upon redemption before maturity, proceeds received at maturity, and the receipt of interest in proceeds;

are exempt from taxation in Indiana for all purposes except the financial institutions tax imposed under IC 6-5.5 or a state inheritance tax imposed under IC 6-4.1.

As added by P.L.82-1985, SEC.12. Amended by P.L.21-1990, SEC.58; P.L.254-1997(ss), SEC.35.

IC 36-10-9.1-23

Actions contesting validity of bonds; limitations

Sec. 23. Any action to contest the validity of bonds to be issued under this chapter may not be brought after the fifteenth day following:

- (1) the receipt of bids for the bonds, if the bonds are sold at public sale; or
- (2) the publication one (1) time in a newspaper of general circulation published in the county of notice of the execution and delivery of the contract for the sale of bonds;

whichever occurs first.

As added by P.L.82-1985, SEC.12.